

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

KEYSTONE INSURANCE COMPANY  
AS SUBROGEE OF BRENDA BOYD

(b) County of Residence of First Listed Plaintiff UNKNOWN  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) (302) 778-1200  
WILLIAM J. CATTIE, III  
PAULE HENDERSON LLP  
300 DELAWARE AVE STE 1015 BOX 538  
WILMINGTON, DE 19899-0538

## DEFENDANTS

NATIONAL RAILROAD PASSENGER CORPORATION  
/ KIA AMTRAK & KEVIN CONNORS

County of Residence of First Listed Defendant WASHINGTON, D.C.  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)  
JESSICA LIPPY GALLAGHER & ROWAN, P.C.  
501 SILVERSIDE ROAD, STE 94  
WILMINGTON, DE 19809 (302) 798-2779

## II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                                   |
|---|----------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC 1331 / 28 USC 1441

Brief description of cause: SUBROGATION ACTION, REMOVAL BASED UPON FEDERAL QUESTION - AMTRAK CREATED BY CONGRESS

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

4/3/07

*Jessica Lippy*

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

KEYSTONE INSURANCE COMPANY  
AS SUBROGEE OF BRENDA BOYD

Plaintiffs

vs.

NATIONAL RAILROAD PASSENGER  
CORPORATION A/K/A AMTRAK, AND  
KEVIN CONNORS

Defendants

CIVIL ACTION

NO.

JURY TRIAL DEMANDED  
12 JURORS REQUESTED

**NOTICE OF REMOVAL**

**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE:**

The Petitioner, Defendant, National Railroad Passenger Corporation a/k/a Amtrak (hereinafter "Amtrak") and Defendant Kevin Connors, by and through its attorneys, Gallagher & Rowan, P.C., respectfully avers the following:

1. On February 26, 2007, this action was commenced against the Defendants in the Superior Court in and for New Castle County, Delaware, upon the filing of a Praecipe for Summons and Complaint. This case is known as **Keystone Insurance Company as Subrogee of Brenda Boyd vs. National Railroad Passenger Corporation a/k/a Amtrak, and Kevin Connors**, C.A. No. 07C-02-080 MJB. The Complaint is attached hereto, and made part hereof as Exhibit A.

2. Amtrak received service of the Plaintiff's Complaint on or about March 22, 2007.

3. Defendant Amtrak is a corporation created by an Act of Congress

codified at 49 U.S.C. § 24301, et seq.

4. The Federal Government owns and owned during all relevant times hereto more than one-half of the capital stock of the Defendant, Amtrak.

5. The above-described action is a Civil Action over which this Honorable Court has federal question jurisdiction under 28 U.S.C. §1331, given that Defendant Amtrak was created by an Act of Congress, wherein the United States is the owner of more than one-half of its capital stock. Eichelberg v. National Railroad Passenger Corp., 57 F.3d 1179 (2nd Cir. 1995); Foster v. National Fire, Marine & Inland Ins. Co., 986 F.2d 48, 51 (3d Cir. 1993); Capocy v. Kirtadze, et al., 1997 W.L. 182296 (N.D. Ill. 1997); Gibson v. National R. R. Corp., 170 F.R.D. 408 (E.D. Pa. 1997); Landman v. Borough of Bristol, 896 F. Supp. 406, 407-408 (E.D. Pa. 1995); Wormley v. Southern Pacific Transp. Co., 863 F. Supp. 382 (E.D. Tex 1994); Estate of Wright v. Illinois Cent. R. Co., 831 F.Supp. 574 (S.D. Miss. 1993); Boone v. National Railroad Passenger Corporation, 1993 W.L. 93 946 (E.D. Pa. 1993); Ritter v. Consolidated Rail Corporation, 1993 W.L. 29151 (E.D. Pa. 1993); Marcus v. Northeast Commuter Services Corp., 1992 W.L. 129637 (E.D. Pa. 1992); McManus v. Glassman's Wynnefield, Inc., 710 F.Supp. 1043 (E.D. Pa. 1989); In re: Rail Collision Near Chase, Maryland, on January 4, 1987; Harvey v. National Railroad Passenger Corporation, et al., 680 F.Supp. 728 (D.Ct. Md. 1987); See also, Nero v. Amtrak, 714 F.Supp. 753, 754 (E.D. Pa. 1989); Rivera v. City of Bethlehem, E.D. Pa. No. 92-3292, Memorandum Opinion and Order, July 20, 1992; Zawacki v. Penpac, Inc., 745 F.Supp. 1044 (M.D. Pa. 1990).

6. The above-described action is one which may be removed to this Honorable Court by Amtrak pursuant to the provisions of 28 U.S.C. §1441 et seq. in that this action has been brought in a state court, and a District Court of the United States has original jurisdiction under 28 U.S.C. §1331.

7. This Notice is filed with this Court within the time for removal set forth in 28 U.S.C. §1446(b), and as set forth in Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc., 119 S.Ct. 1322 (1999), inasmuch as the thirty (30) day period for removal, which runs from Amtrak's receipt of the Complaint, has not expired.

8. Defendant, National Railroad Passenger Corporation a/k/a Amtrak is alleged to be liable for the alleged negligence of Defendant Kevin Connors, an employee of Amtrak who was involved in the automobile accident as alleged in plaintiff's complaint.

9. Plaintiff Keystone Insurance Company as subrogee of Brenda Boyd allegedly suffered monetary damages when the Boyd vehicle collided with Amtrak employee Kevin Connors' vehicle in or around Adams Street and Lancaster Avenue in Delaware on November 14, 2003.

10. Written notice of the filing of this Notice will be given to the adverse parties as required by 28 U.S.C. §1446(d).

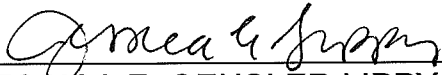
11. A true and correct copy of the Notice will be filed with the Prothonotary of the Superior Court of New Castle County, Delaware, as provided by 28 U.S.C. §1446(d).

12. Pursuant to U.S.C. §1446(a), there is found herewith and by reference

made a part hereof a true and correct copy of all process, pleadings and orders served upon the noticing party in this action.

WHEREFORE, Defendants, hereby pray that it may affect the removal of this action from the Superior Court , County of New Castle, Delaware to the United States District Court for the District of Delaware.

GALLAGHER & ROWAN, P.C.

BY:   
JESSICA E. GENSLER LIPPY, ESQUIRE  
Attorney I.D. No. 4426  
SilverSide Carr Executive Center  
501 SilverSide Road, Suite 94  
Wilmington, DE 19809  
(302) 798-2779  
Attorney for Defendants  
National Railroad Passenger Corporation a/k/a  
Amtrak and Kevin Connors

Date: 4/3/07

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

KEYSTONE INSURANCE COMPANY  
AS SUBROGEE OF BRENDA BOYD

Plaintiffs

vs.

NATIONAL RAILROAD PASSENGER  
CORPORATION A/K/A AMTRAK, AND  
KEVIN CONNORS

Defendants

CIVIL ACTION

NO. 1:05-cv-736

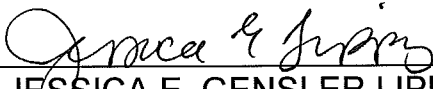
JURY TRIAL DEMANDED  
12 JURORS REQUESTED

**CERTIFICATE OF SERVICE**

I, Jessica E. Gensler Lippy, Esquire, attorney for National Railroad Passenger Corporation a/k/a Amtrak and Kevin Connors, hereby certify that a true and correct copy of the Notice of Removal, was served via first class mail, postage prepaid to:

William J. Cattie, III  
Rawle & Henderson, LLP  
300 Delaware Avenue  
Suite 1015  
PO Box 588  
Wilmington, DE 19899-0588

GALLAGHER & ROWAN, P.C.

BY:   
JESSICA E. GENSLER LIPPY, ESQUIRE  
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(302) 798-2779  
Attorney for Defendants  
National Railroad Passenger Corporation  
a/k/a Amtrak and Kevin Connors

Date: 4/3/07